
Costs Decision

Site visit made on 11 February 2025

by **Alison Fish BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

Costs application in relation to Appeal Ref: APP/E3335/W/24/3349133 The Old Chapel Bakery, Plot 1, Union Street, Wells, Somerset BA5 2PU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Gabriela Roberts of Gabriela Roberts Architecture for an award of costs against Somerset Council.
 - The appeal was against the refusal of planning permission for a development described on the planning application form as 'This application proposes an amendment to permission 2023/0096/FUL to change from 2 large units to 4 smaller units while retaining the original building fabric'.
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Decision

1. The application for an award of costs is refused.

Preliminary Matter

2. The application for costs does not expressly state whether the applicant is seeking a full or partial award of costs against the Council. On the basis of the information before me, it appears that the applicant is seeking costs only in relation to the second reason for refusal. As such, I consider that the application seeks a partial award of costs, and I have determined this application accordingly.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The Council's second reason for refusal relates to the impact of the proposed development on the integrity of the Somerset Levels and Moors Ramsar site, a protected habitats site. The applicant asserts that they provided information to demonstrate that sufficient mitigation had already been provided through the earlier grant of planning permission, therefore this should not have been a reason for refusal which had to be addressed through the appeal process. Responding to this has caused the applicant to incur additional fees.
5. The Council advises that the Ramsar site, designated for its rare aquatic invertebrates is in an unfavourable condition. This, they say results from an increase in phosphates from foul water drainage associated with new housing entering the watercourses and requires mitigation.
6. The Council say that the information submitted with the application has not taken into account the potential increase to phosphate levels in the Ramsar arising from foul water discharge from the additional two residential units in the appeal proposal.

In addition, they state that the existing use of the building as a restaurant has been used as partial mitigation to offset the harm but given that staff and visitors are likely to be living or staying in the district, their impact has already been accounted for elsewhere. The applicant did not provide a revised Phosphate Budget Calculator with the appeal.

7. Whilst I did not need to consider this in detail in my determination of the appeal, the Council has provided information which is sufficiently detailed to substantiate its objection in respect of the effect on the Ramsar site.
8. I conclude that the Council has not behaved unreasonably in respect of the second reason for refusal. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and a partial award of costs is not justified.

Alison Fish

INSPECTOR